

1 KARL Y. OLSEN  
2 Nevada Bar No. 6767  
3 PARSONS BEHLE & LATIMER  
4 50 West Liberty Street, Suite 750  
Reno, NV 89501  
Telephone: (775) 323-1601  
Facsmile: (775) 348-7250

5 DAVID R. HALL  
6 Nevada Bar No. 9571  
7 PARSONS BEHLE & LATIMER  
201 South Main Street, Suite 1800  
Salt Lake City, UT 84111  
Telephone: (801) 532-1234  
Facsimile: (801) 536-6111

9  
10 Attorneys for Defendant JPMorgan Chase Bank,  
N.A.

11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE DISTRICT OF NEVADA

14 MARK MAUSERT AND VERONIKA  
15 LUCIE ZDENKOVA, Husband and Wife,

Case No.

16 Plaintiffs,  
17 v.  
18 WASHINGTON MUTUAL BANK,  
19 FEDERAL DEPOSIT INSURANCE  
CORPORATION, JPMORGAN CHASE  
BANK, N.A., DOES I-C

NOTICE OF REMOVAL

20 Defendants.

21 I. NOTICE OF REMOVAL

22 Defendant JPMorgan Chase Bank, N.A. ("Chase"), through the undersigned counsel, and  
23 pursuant to 28 U.S.C. §§ 1441 and 1446, hereby remove this action entitled *Mark Mausert, et al.*  
24 v. *Washington Mutual Bank, et al.*, from the Second Judicial District Court State of Nevada of  
25 Washoe County, to the United States District Court for the District of Nevada-Reno.

1        **II. GROUNDS FOR REMOVAL**2        **A. Removal is Based Upon Diversity Jurisdiction.**

3        Plaintiffs are citizens of the State of Nevada. Defendant JPMorgan Chase Bank, N.A. is a  
 4        national banking association with its “main office” in Cleveland, Ohio, and as such, is a citizen of  
 5        the State of Ohio. All other defendants have been dismissed from the lawsuit prior to removal.

6        The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and  
 7        costs. Plaintiffs seek reimbursement of their down payment in the alleged amount of  
 8        \$315,000.00, forgiveness of the loan in the principal amount of \$948,750.00, and other damages.

9        **B. Defendants' Notice of Removal is Timely**

10       Defendant's Notice of Removal is made within the time limit required under 28 U.S.C.  
 11       § 1446(b) prescribing that the notice of removal of a civil action or proceeding shall be filed  
 12       within thirty (30) days after receipt by the defendant, through service or otherwise, of a copy of  
 13       the initial pleading. Chase has never been served with a summons or complaint. Accordingly,  
 14       the thirty (30) day time period for filing a notice of removal has not yet begun. *See Murphy*  
 15       *Brothers, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999) (holding that mere receipt of  
 16       the complaint unattended by any formal service does not trigger the time for removal). Less than  
 17       one year has passed after commencement of the action as the original action was filed on August  
 18       7, 2009.

19       **C. Venue is Proper in this Court**

20       Venue on removal is proper in this Court, pursuant to 28 U.S.C. ¶ 1441(a), because the  
 21       United States District Court for the District of Nevada-Reno embraces the Second Judicial  
 22       District Court of Nevada, where the action was first filed. Defendant, however, reserves the right  
 23       to file a motion to transfer this case to another venue pursuant to 28 U.S.C. § 1404(a), and does  
 24       not waive its right to do so.

25       **III. LIST OF ATTACHED PLEADINGS**

26       Pursuant to 28 U.S.C. § 1446(a), Defendant attaches hereto copies of all relevant process,  
 27       pleadings, and orders issued in the Action, including as follows:

28       1.       Complaint;

- 1 2. Amended Complaint;
- 2 3. Motion for Temporary Restraining Order/Preliminary Injunction;
- 3 4. Motion to Dismiss Amended Complaint Against Washington Mutual Bank and the
- 4 FDIC.
- 5 5. Plaintiffs' Opposition to Defendant FDIC's Motion to Dismiss;
- 6 6. Reply to Plaintiffs' Opposition to Defendant FDIC's Motion to Dismiss;
- 7 7. Request for Submission of Motion;
- 8 8. Order; and
- 9 9. Notice of Entry of Order.

10 **IV. SERVICE OF NOTICE OF REMOVAL**

11 Pursuant to 28 U.S.C. § 1446(d), contemporaneously with the filing of the Notice of  
12 Removal, Defendant is filing a Notice of Filing a Notice of Removal in the Second Judicial  
13 District Court for the State of Nevada in and for the County of Washoe County.

14 Dated: January 27, 2010.

15 PARSONS BEHLE & LATIMER

16 By:/s/ David R. Hall

17 DAVID R. HALL  
18 Nevada Bar No. 9571  
19 201 South Main Street, Suite 1800  
20 Salt Lake City, UT 84111  
Tel: (801) 532-1234  
Attorneys for Defendant  
JPMorgan Chase Bank, N.A.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27 day of January, 2010, I caused to be mailed, first class, postage prepaid, a true and correct copy of the foregoing, **NOTICE OF REMOVAL** to:

Mark Mausert, Esq.  
930 Evans Avenue  
Reno, NV 89512

Robert Hager, Esq.  
HAGER & HEARNE  
245 East Liberty Street, Ste. 110  
Reno, NV 89501

Rick Lawton, Esq.  
Law Office of Rick Lawton, Esq. P.C.  
5435 Reno Hwy  
Fallon, NV 89406

Rose Tornell  
Employee of Parsons Behle & Latimer